Penal laws have been defined as being those imposing punishment for an offense committed against the state and which the executive of the state has the power to pardon. *American, etc., Co. v. Ellis,* 156 Ind., 212; *Hutchinson v. Young,* 80 App. Div. (N. Y.), 246. This seems to be the definition accepted by the principal case, but the definition seems too restricted. For it is held by many courts that all statutes imposing a penalty, pecuniary or otherwise, as a punishment, are penal in their nature, whether enforced by civil or criminal procedure. *Woolverton v. Taylor,* 132 Ill., 197; *Hall v. Norfolk & W. R. Co.,* 44 W. Va., 36; *United States v. Chouteau,* 102 U. S., 603. Moreover, the penal laws of a state are strictly local in their character and effect, and are not enforcible beyond the jurisdiction of the state. *Peterson v. Walsh,* 1 Daly (N. Y.), 182; *Commonwealth v. Green,* 17 Mass., 515. The same is true among nations. *The Antelope,* 10 Wheat., 66. And this principle applies when an action is brought in one state to recover under the laws of another state which provide for increased damages, such damages being considered a penalty. *Langdon v. Railroad Co.,* 58 Hun. (N. Y.), 122; *Taylor, Farr & Co. v. Telegraph Co.,* 95 Ia., 740; *Bettys v. Railroad Co.,* 37 Wis., 323. Although a modification has been made to this rule, the recovery of a penalty having been allowed in one state for a cause of action arising under a statute of a foreign state, where similar statutes existed in the two states. *Boyce v. Wabash Railway Co.,* 63 Ia., 70.

CRIMINAL LAW—JUDICIAL NOTICE—FACTS OF COMMON KNOWLEDGE.—FLANDERS V. COMMONWEALTH, 130 S. W., 809.—*Held,* that where accused is charged with selling a decoction having the ingredients of intoxicants in violation of a statute, the court takes judicial notice of the fact that common beer is a malt liquor.

There is a great conflict of opinion on this point. Many of the states hold that judicial notice will be taken of the fact that common beer is intoxicating. *Pedigo v. Com.,* 24 Ky. Law Rep., 1029; *State v. Effinger,* 44 Mo. App., 81; *State v. Morehead,* 32 R. I., 272. The courts are almost evenly divided on the matter, however, and it is held in many jurisdictions that such a question is a matter of evidence. *State v. Sioux Falls Brewing Co.,* 5 S. D., 39; *Klare v. State,* 43 Ind., 483; *Blatz v. Rohrbach,* 116 N. Y., 450. Other intoxicants that may be judicially noticed are whiskey. *Freiberg v. State,* 94 Ala., 91. Brandy, *State v. Wadsworth,* 30 Conn., 55. Gin, *Com. v. Peckham,* 68 Mass., 514. Ale, *Johnston v. State,* 23 Ohio St., 556. Wine, *State v. Parker,* 80 N. C., 439. Alcohol, *Snider v. State,* 81 Ga., 753. But it has been held that evidence is necessary to prove that cider is intoxicating. *Hewitt v. People,* 87 Ill. App., 367. And evidence is necessary regarding rice beer. *Bell v. State,* 91 Ga., 227.

ELECTIONS—BALLOTS—VOTER'S INTENT.—DURGIN V. CURRAN, 77 ATL., 689 (ME.).—*Held,* that in passing on the validity of a ballot not marked according to law, a court cannot consider the voter's intention as manifested by the marking.

Provisions of the election law which are not essential to a fair election are held to be formal and directing only, unless declared to be man-

datory by the law itself. *State v. Van Camp,* 36 Nebr., 91; *De Berry v. Nicholson,* 102 N. C., 465. And so, in general, the courts hold statutes regarding the marking of ballots directory only, and construe them liberally, giving effect, as far as possible, to the voter's intention. *Parker v. Orr,* 158 Ill., 609; *State v. Elwood,* 12 Wis., 551. For instance, a Latin or a Greek cross may be used under a statute requiring ballots to be marked with "a cross—for example an (X)." *Coulehan v. White,* 95 Md., 703. But two parallel horizontal lines will not suffice for a cross. *Chistopherson v. Manister,* 117 Mich., 125. A statute specifying that black ink be used is sufficiently complied with by using a pencil or ink of any color. *Houston v. Steele,* 98 Ky., 596; *Contra, People v. Bourke,* 30 Misc. (N. Y.), 461. Furthermore, according to some authorities, a ballot marked at the wrong side of the candidate's name should be counted. *Mauck v. Brown,* 59 Nebr., 382; *State v. Fawcett,* 17 Wash., 188. *Contra, Curran v. Clayton,* 86 Me., 42; *McKittrick v. Pardee,* 8 S. D., 39.

EMINENT DOMAIN—DAMAGES—TIME OF ASSESSMENT—ENHANCEMENT OF VALUE BY IMPROVEMENT.—UNITED STATES V. CERTAIN LANDS IN TOWN OF NARRAGANSETT, 180 FED., 260.—*Held,* that where the government, before instituting condemnation proceedings by the filing of a petition, had practically completed the end of a breakwater adjoining claimant's property, thus creating, under the shelter of the breakwater, a wharf site, which was taken away by the subsequent condemning of part of the upland adjacent to the alleged wharf site, the rule that damages are to be assessed as of the date of condemnation did not apply, so as to entitle the owner of the upland to damages as of the date of condemnation, and as enhanced by the wharf site, created by the work; it being certain from the beginning of the work that the upland would be condemned, and the alleged wharf site not being available as such without the approval of the Secretary of War, which could not reasonably be expected in view of the location of the government improvements.

In *May v. City of Boston,* 158 Mass., 21, a case directly in point, it is said, "Where damages for land taken under a statute for the purposes of a public park are to be estimated, as in cases of laying out, altering or widening highways under the Public Statutes, 51, § 3, which provides that the damages shall be fixed at the value of the land before such laying out, alteration or widening; the owner is to be compensated by the payment of the fair value at the time of the taking. It is the purpose of the Legislature not to permit owners to recover damages at a value enhanced by a public improvement which owes its existence to the change of use of the very land to be paid for." But in *Harlan v. Hogsett,* 60 Nebr., 362, it is said that damages for lands appropriated for a highway accrue at the date of the taking without regard to the time when the road is actually opened. This may be taken as the general rule. *Bauman v. Ross,* 167 U. S., 548; *Benedict v. City of New York,* 98 F., 789; *Southern Ry. Co. v. Cowan,* 129 Ala., 577. However, in *Mavory v. City of Boston,* 193 Mass., 425, it is said, "The owner of land taken for public use cannot recover therefor an enhanced value which it has acquired merely by reason of the taking, or as the result of the improvement which the taking of that particular